

# To the Honorable Council City of Norfolk, Virginia

November 10, 2015

From:

George M. Homewood, AICP, CFM, Planning Director

Subject:

Amend a previously granted special exception to operate an eating and drinking

establishment at 9643 First View Street, suites 9647 and 9649 — Golden China

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 5/6

Approved:

Marcus D. Jones, City Manager

**Item Number:** 

R-1

I. Staff Recommendation: Approval.

- II. <u>Commission Action:</u> By a vote of 6 to 0, the Planning Commission recommends Approval.
- III. Request: Special exception eating and drinking establishment
- IV. Applicant: Bi Chao Chen

### V. <u>Description:</u>

- Granting this request will allow Golden China, an existing restaurant, to increase seating and total capacity through physical expansion into an adjacent suite.
- The previously granted special exception (granted in 2014) permits an eating and drinking establishment with alcoholic beverages.
- Golden China will retain the same hours of operation and hours for the sale of alcoholic beverages as before.

	Prior	Proposed
Hours of Operation and for the Sale of Alcohol	11:00 a.m. until 10:30 p.m., Monday through Thursday 11:00 a.m. until 11:00 p.m., Friday and Saturday 12:00 noon. until 10:30 p.m., Sunday	Same
Capacity	40 seats indoors 0 seats outdoors 45 total capacity	108 seats indoors 20 seats outdoors 147 total capacity

Staff point of contact: Chris Blough at 664-6771, <a href="mailto:christopher.blough@norfolk.gov">christopher.blough@norfolk.gov</a>

#### Attachments:

- Staff Report to CPC dated October 22, 2015 with attachments
- Proponents and Opponents
- Ordinance



# Planning Commission Public Hearing: October 22, 2015

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Chris Blough

Staff Report	Item No. 9			
Address	9645 1st View Stree	9645 1 <sup>st</sup> View Street, suites 9647 & 9649		
Applicant	Bi Chao Chen (Gold	Bi Chao Chen (Golden China)		
Request	Amend Special Exception	Eating and Drinking Establishment		
Property Owner	Blue Marble & Sun LLC			
Site Characteristics	Site Area/Space	30,035/1,800 sq. ft.		
	Zoning	C-2 (Corridor Commercial)		
	Neighborhoods	Ocean View		
	Character District	Suburban		
	North	C-2 : Greenie's Bar & Grill On The Beac		
C	East	C-3 (Retail Center): KFC/Taco Bell		
Surrounding Area	South	C-1 (Limited Commercial) : U.S. Post Office		
	West	R-12 : Multi-family		



#### A. Summary of Request

- Granting this request will allow Golden China, an existing restaurant, to increase seating and total capacity through physical expansion into an adjacent suite.
- The previously granted special exception (granted in 2014) permits an eating and drinking establishment with alcoholic beverages.
- Golden China will retain the same hours of operation and hours for the sale of alcoholic beverages as before.

#### B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as commercial.

#### C. Zoning Analysis

- i. General
  - The site is located in the C-2 district, which permits the proposed use by special exception.

	Prior	Proposed
	11:00 a.m. until 10:30 p.m.,	
	Monday through Thursday	
Hours of Operation and for	11:00 a.m. until 11:00 p.m.,	
the Sale of Alcoholic	Friday and Saturday	Same
Beverages	12:00 noon. until 10:30	
	p.m.,	
	Sunday	
	40 seats indoors	108 seats indoors
Capacity	0 seats outdoors	20 seats outdoors
	45 total capacity	147 total capacity

#### Special exception history:

City Council Approval	Applicant	Changes
February 2014	Golden China	Original Application (Eating and Drinking Establishment)
Pending	Golden China	<ul><li>Increase in capacity</li><li>Revised floor plans</li></ul>

#### ii. Parking

- The site is located in the Suburban Character District, which requires one parking space per 250 square feet of enclosed building area for commercial uses.
- The 1,800 square-foot proposed space must provide seven parking spaces.
- The site complies with current parking requirements.

#### iii. Flood Zone

The property is located in the X Flood Zone which is a low-risk flood zone.

#### D. Transportation Impacts

Institute of Transportation Engineers figures estimate that this restaurant use will generate 319 additional vehicle trips per day by increasing total indoor seating at this location by 66 seats above currently approved levels.

#### E. Impact on the Environment

There are currently no opportunities for landscaping improvements to this existing site.

#### F. Impact on Surrounding Area/Site

By requiring this use to conform to the conditions listed below, the proposed indoor flea market should not have a negative effect on the surrounding offices or neighborhood.

#### G. Payment of Taxes

The owner of the property is current on all real estate taxes.

#### H. Civic League

The application was sent to the Ocean View Civic League on September 10.

#### I. Communication Outreach/Notification

- Legal notice was posted on the property on September 15.
- Letters were mailed to all property owners within 300 feet of the property on October 8.
- Legal notification was placed in *The Virginian-Pilot* on October 8 and October 15.

#### J. Recommendation

Staff recommends that the special exception request be **approved** subject to the conditions shown below:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 11:00 a.m. until 10:30 p.m., Monday through Thursday, 11:00 a.m. until 11:00 p.m., Friday and Saturday, and 12:00 noon until 10:30 p.m., Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 108 seats indoors, 20 seats outdoors, and the total occupant capacity, including employees, shall not exceed 147 people. The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.
- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (h) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

- (i) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.
- (j) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (k) There shall be no entertainment, no dancing, and no dance floor provided.
- (I) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (m) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

#### Attachments:

Location Map
Zoning Map
1000' radii map of similar ABC establishments
Application
Notice to Ocean View Civic League

Proponents and Opponents			
<u>Proponents</u> None			
Opponents			
None			

10/20/2015 lds

Form and Correctness Approved

Office of the City Attorney

Contents Approved: ∠ W

By \_\_\_\_

NORFOLK, VIRGINIA

# **ORDINANCE No.**

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT KNOWN AS "GOLDEN CHINA" ON PROPERTY LOCATED AT 9643  $1^{\rm ST}$  VIEW STREET, SUITES 9647 AND 9649.

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Asia Food of Norfolk, Inc. authorizing the operation of an eating and drinking establishment known as "Golden China" on property located at 9643 1st View Street, suites 9647 and 9649. The property which is the subject of this Special Exception is more fully described as follows:

Property located on the southwest corner of Portview Avenue and 1<sup>st</sup> View Street fronting 100 feet, more or less, along the southern line of West Ocean View Avenue and 300 feet, more or less, along the western line of 1<sup>st</sup> View Street; property also fronts 100 feet, more or less along the northern line of Portview Avenue; premises numbered 9643 1<sup>st</sup> View Street, suites 9647 and 9649.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

- (a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 11:00 a.m. until 10:30 p.m. Monday through Thursday, from 11:00 a.m. until 11:00 p.m. on Friday and Saturday, and from 12:00 noon until 10:30 p.m. on Sunday. No use of the establishment outside of the hours of operation listed herein shall be permitted.
- (b) The seating for the establishment shall not exceed 108 seats indoors, 20 seats outdoors, and the total occupant capacity, including employees, shall not

exceed 147 people.

- (c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.
- (d) The establishment shall maintain a current, active business license at all times while in operation.
- (e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.
- (f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.
- (g) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the Special Exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.
- (h) A menu shall be provided containing an assortment of foods which shall be made available at all times the restaurant is open. A food menu and full dining service shall be available at the bar.
- (i) The business authorized by this Special Exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners,

operators and managers who operate and/or manage the premises covered by this Special Exception. Should any owner, operator, or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new Special Exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

- (j) There shall be no entertainment, no dancing, and no dance floor provided.
- (k) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this Special Exception. This Special Exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.
- (1) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (m) A copy of this Adult Use Special Exception ordinance and Exhibits shall be available on site at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

- (a) The proposed use and development will be in harmony with the objectives and policies of the adopted general plan and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;
- (b) The proposed use and development will not substantially diminish or impair the value of the property within the neighborhood in which it is located;
- (c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;
- (d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;
- (e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;
- (f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;
- (g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;
- (h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;
- (i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all

types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

- (j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and
- (k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an eating and drinking establishment on this property, adopted on March 18, 2014 (Ordinance No. 45,477). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT: Exhibit A (3 pages)



# Description of Operations Eating and Drinking Establishment

Date 981					
Trade name of business Tolan Keshiron					
Address of business 10 / / / / / / / / / / / / / / / / / /					
Name(s) of business owner(s)* Bi Chao Cher					
Name(s) of property owner(s)* Rule HAhr					
Daytime telephone number (757 _ 535 6147					
*If business or property owner is partnership, all partners must be listed. *If business or property owner is an LLC or Corporation, all principals must be listed.					
Proposed Hours of Operation:					
Facility Alcoholic Beverage Sales					
Weekday FromToTo					
- 11 - To 11 - Eriday From					
Saturday From 11 To 11 Saturday From 500 To					
Sunday From 11 To 10 Sunday From To					
2. Type of ABC license applied for (check all applicable boxes)  On-Premises □ Off-Premises (additional application required)					
3. Type of alcoholic beverage applied for  A Beer A Wine S Mixed Beverage					
4. Will indoor or outdoor entertainment be provided?  (Entertainment consists of anything more than one, unamplified musician)  [I Ves (Different application required) No					

# DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569

## Exhibit A – Page 2 Eating and Drinking Establishment

5.	5. Will video games, pool tables, game boards or other types of games be provided ☐ Yes (If more than 4, additional application required)					
	If yes, please describe type and number of each game to be provided					
6.	Will pa □ Yes	atrons ever be charged to enter the establishment?				
	6a.	If yes, why				
,	6b.	Which days of the week will there be a cover charge (circle all applicable days)?				
		Monday Tuesday Wednesday Thursday Friday				
		Saturday Sunday				
7.	Will th	e facility or a portion of the facility be available for private parties?				
	7a.	If yes, explain				
8.	Will a □ Yes	third party (promoter) be permitted to lease, let or use the establishment?				
	8a.	If yes, explain				
9.	Will ti	nere ever be a minimum age limit?				

Exhibit A - Page 3

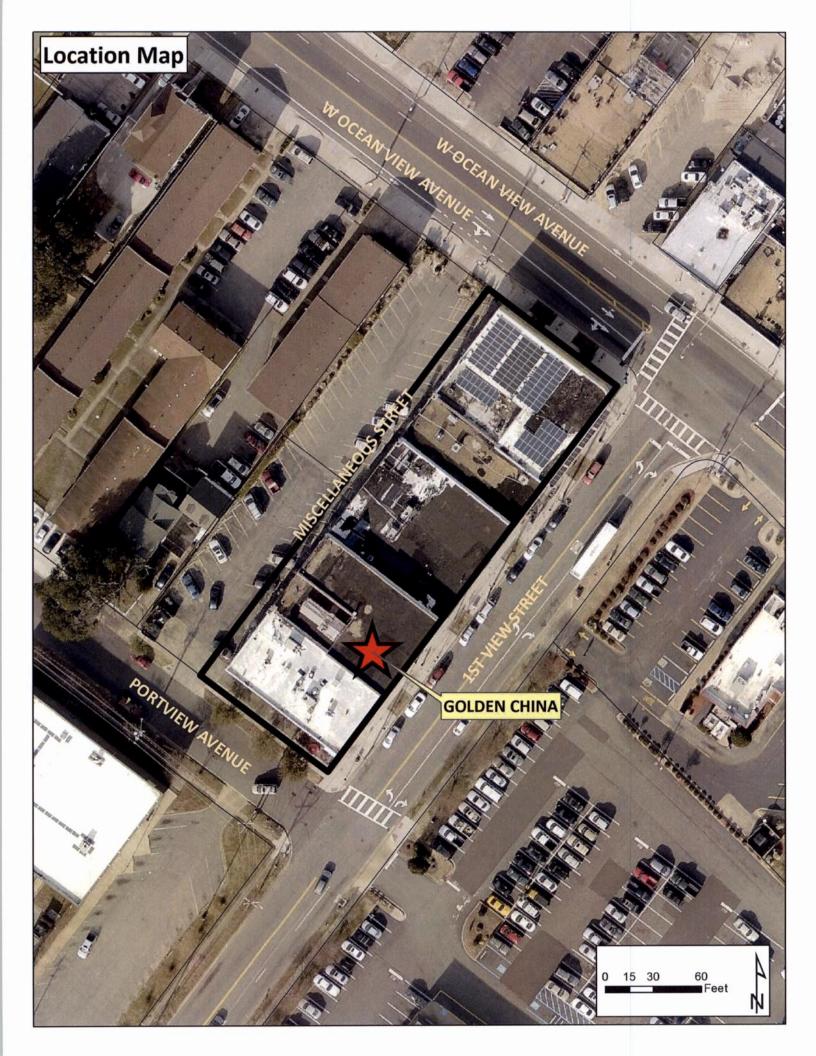
DEPARTMENT OF CITY PLANNING 810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569

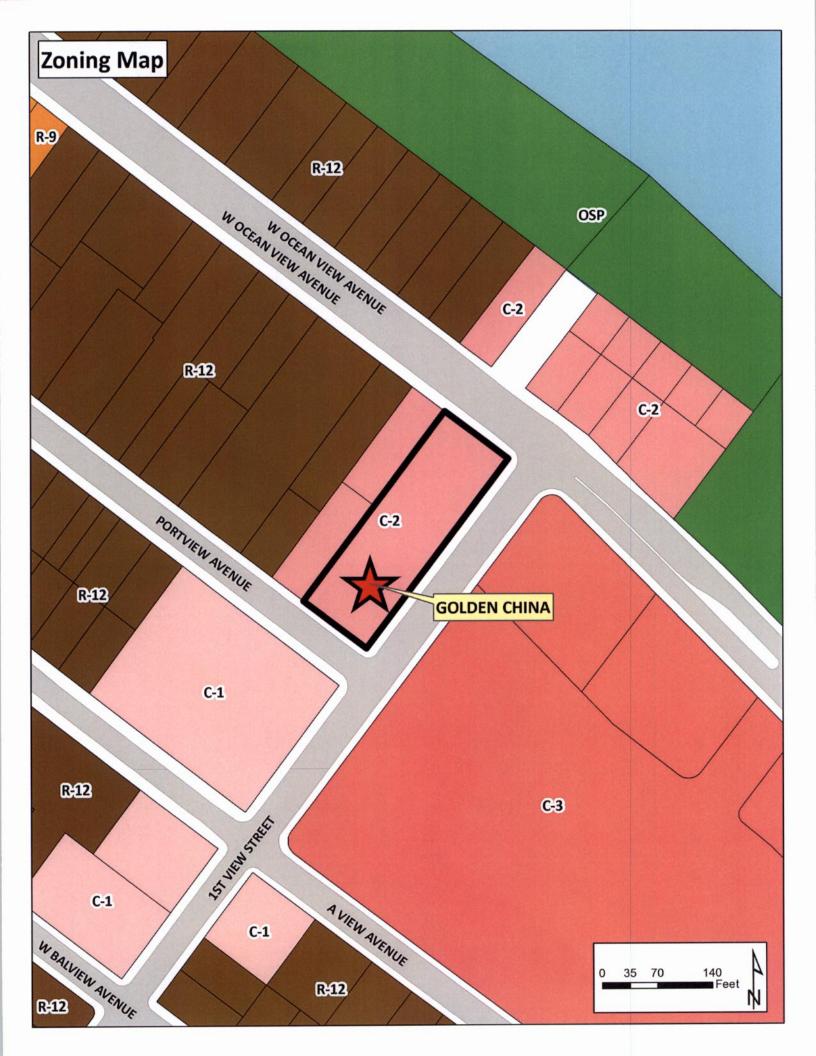
# Eating and Drinking Establishment

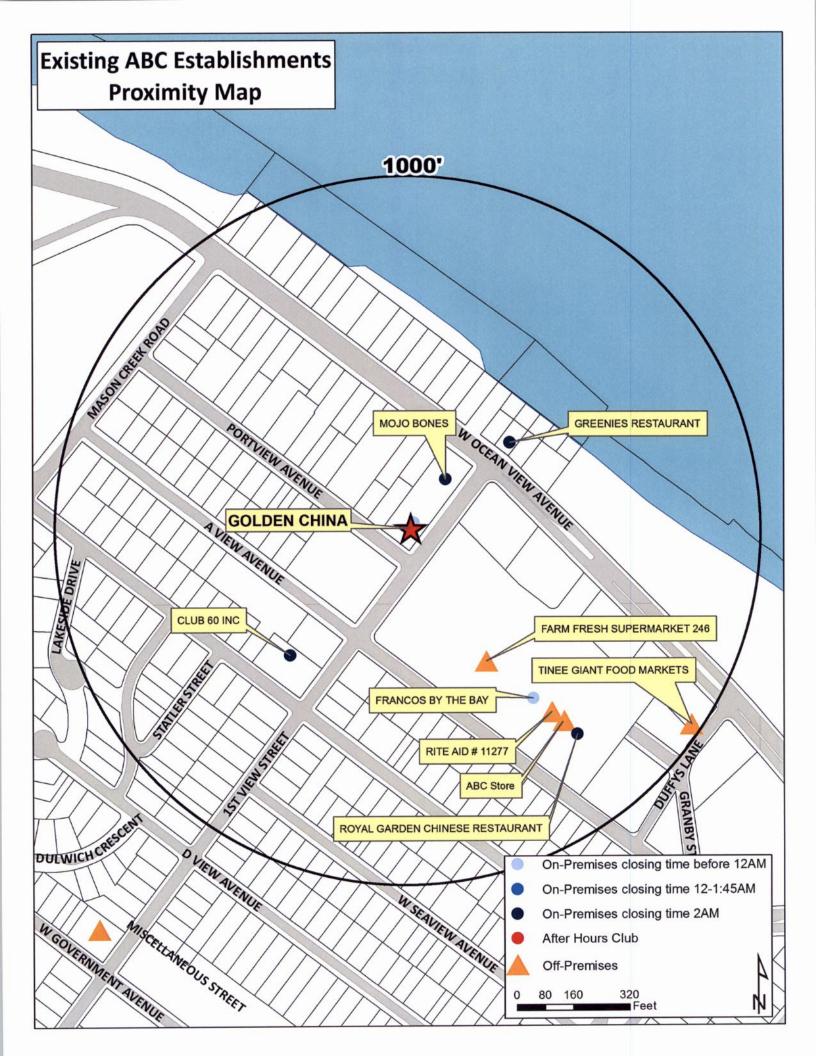
10. Additional comments/ description/operational characteristics or prior experience:
Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility

Signature of Applicant

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569









# **APPLICATION** SPECIAL EXCEPTION

Special Exception for: Asian Restored				
Date of application: 9/8/15				
Proposed Use				
Proposed Square Footage3500				
Proposed Hours of Operation:				
Weekday From 11 To 10				
Friday From 11 To 11				
Saturday From To				
Sunday From 11- To 10-				
Trade Name of Business (If applicable)				

#### DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

Application Special Exception Page 2

(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)
1. Name of applicant: (Last) Chr (First) B, Q (MI)
Mailing address of applicant (Street/P.O. Box): PO Box 8517
(City) Noall (State) VA (Zip Code) 23503
Daytime telephone number of applicant (75)7 535-6147ax()
E-mail address of applicant: RHAhN@ SPASIde block.com
AUTHORIZED AGENT (if applicable) (If agent is a LLC or a Corp./lnc., include name of official representative and/or all partners)
2. Name of applicant: (Last)(First)(MI)
Mailing address of applicant (Street/P.O. Box):
(City)(Zip Code)
Daytime telephone number of applicant ( ) Fax ( )
E-mail address of applicant:
PROPERTY OWNER  (If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)
3. Name of property owner: (Last) HAN (First) KichARd (MI)
3. Name of property owner: (Last) HANN (First) RICHIFICE (IVII)
Mailing address of property owner (Stree (P.O. box)) 8517
(City)(State)(Zip Code)_23503
Daytime telephone number of owner 757-535 email: RIFANNO SCASIDE
6142 Block. wm

# DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569
(Revised January, 2015)

CIVIC League contact:

Date(s) contacted:

Ward/Super Ward information:

CERTIFICATION:
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name:

(Property Owner or Authorized Agent of Signature)

Print name:

(Date)

ONLY NEEDED IF APPLICABLE:

Print name:

Sign:

(Authorized Agent Signature)

(Date)

Application Special Exception

Page 3

# DEPARTMENT OF CITY PLANNING

810 Union Street, Room 508 Norfolk, Virginia 23510 Telephone (757) 664-4752 Fax (757) 441-1569 (Revised January, 2015)

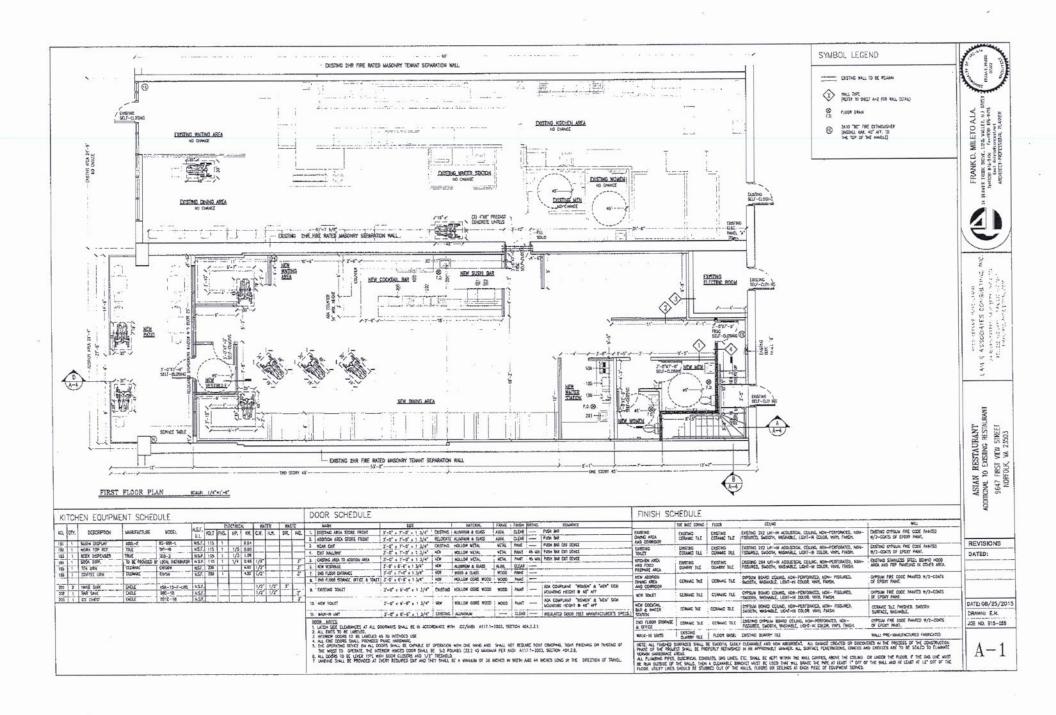
## Exhibit A – Floor Plan(s) Worksheet Eating and Drinking Establishment

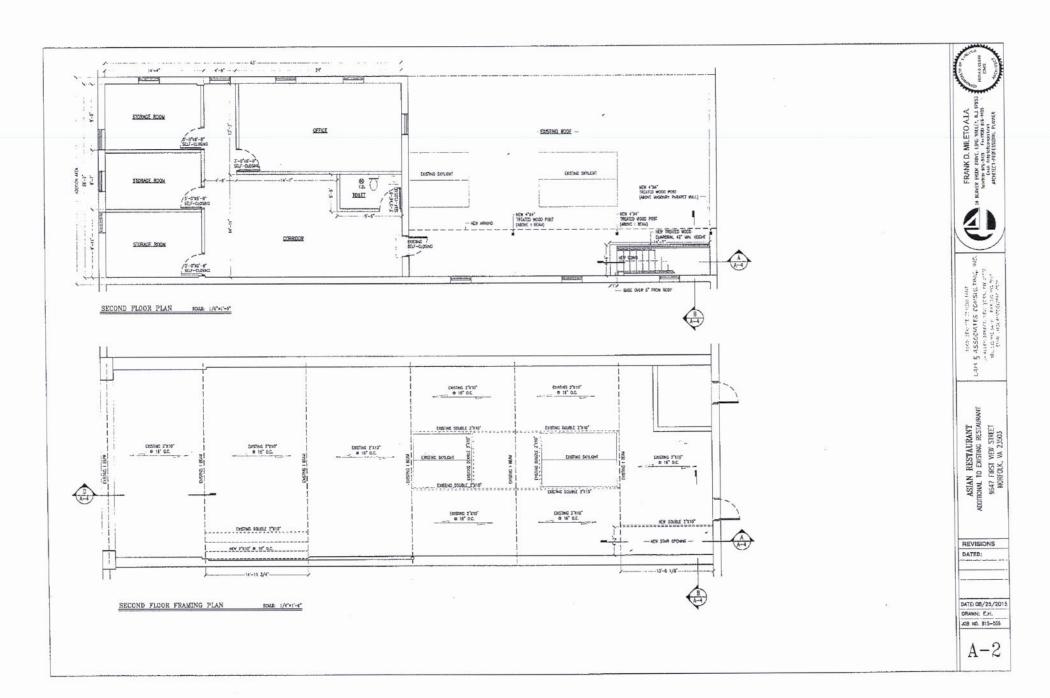
- Complete this worksheet based for each floor plan submitted with application.
- Floor plan must be prepared by a registered design professional and include:
  - o Tables/seats
  - Restroom facilities
  - o Bar
  - o Ingress and egress
  - o Standing room
  - Outdoor seating
  - o Total maximum capacity (including employees)

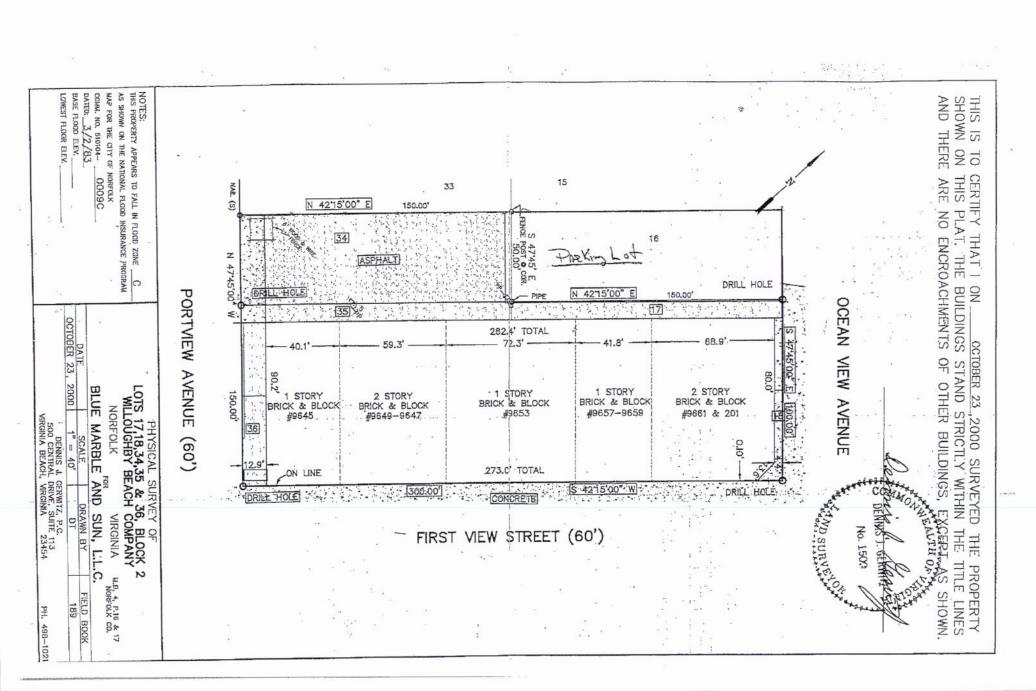
#### Total capacity

a.	Indoor Number of seats (not including bar seats) Number of bar seats Standing room	108
b.	Outdoor Number of seats	20
c.	Number of employees	10

Total Occupancy (Indoor/Outdoor seats, standing room and employees) = \( \frac{14}{3} \)







#### Blough, Christopher

From:

Straley, Matthew

Sent:

Thursday, September 10, 2015 11:19 AM

To:

leidingnorfolk@cox.net

Cc:

Smigiel, Thomas; Winn, Barclay; Ransom, Carlton; Blough, Christopher

Subject:

new Planning Commission application - 9643 1st View Street, Suites 9647 & 9649

**Attachments:** 

Chen.pdf

Mr. Saunders,

Attached please find the application to amend a previously granted special exception to operate an eating and drinking establishment at 9643 1st View Street, Suites 9647 & 9649.

The purpose of the request is to allow for the expansion of an existing restaurant into the adjacent commercial suite.

The item is tentatively scheduled for the October 22, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov

Thank you.

#### **Matthew Straley**

GIS Technician II Norfolk Department of City Planning 810 Union Street, Suite 508 | Norfolk, Virginia 23510

Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569